

REMARKS

The Office Action dated November 28, 2007 has been reviewed carefully and the following arguments are presented in a sincere effort to place the application in condition for allowance. Accordingly, reconsideration of the rejection of the claims and allowance of the same, are respectfully requested on the basis of the following remarks.

Upon entry of this amendment claims 1, 5-23, 26-31, 40, 43-52, and 55-57 will be pending in the application.

Rejection of Claims 1, 5-23, 26-31, 40, 43-52, and 55-57 under 35 USC §112

The Examiner asserts that claims 1, 5-23, 26-31, 40, 43-52, and 55-57 are allegedly indefinite for use of the phrase "and/or". However, the Applicants have conducted a search in the patent database that is available on the website of the United States and Patent Trademark Office for use of the phrase "and/or" in a claim. That search uncovered 142,008 patents ("hits") wherein the phrase "and/or" was used in one or more claims (the most recent patent was issued on March 12, 2008). Moreover, the search also uncovered 32 patents that use the phrase "and/or" wherein the Examiner has been listed as the "Primary Examiner." In view of the numerous patents that have been issued with the "and/or" phrase in one or more claims (including those on which the Examiner has been listed as the "Primary Examiner"), Applicants submit that claims 1, 5-23, 26-31, 40, 43-52, and 55-57 comply with 35 U.S.C. 112 and request that the rejection of these claims be withdrawn.

Rejection of Claims 1, 5-23, 26-31, 40, 43-52, and 55-57 on the Ground of Nonstatutory Obviousness Type Double Patenting

The Examiner has rejected claims 1, 5-23, 26-31, 40, 43-52, and 55-57 as allegedly being unpatentable over claims 1-16 of Barancyk (US Pat. No. 5,922,475).

In general, Barancyk appears to disclose a curable film-forming composition that comprises: (i) a polyester polymer or oligomer containing a plurality of carbamic groups; (ii) an alkylolated and, optionally, etherified carbamate functional acrylic polymer; and (iii) an aminoplast crosslinking agent. See Abstract. Additionally, Barancyk discloses that the acrylic polymer can be a copolymer having groups of structure II that may be prepared by polymerizing monomers having structure III with other ethylenically unsaturated monomers. See column 4, line 64, to column 5, line 18.

Unlike claims 1, 23, 40, and 51 of the present invention, Barancyk does not disclose and/or suggest a reaction product that is formed from: (a) a copolymer comprising residues of alternating structural units of donor and acceptor monomers; (b) at least one aldehyde; and (c) at least one monohydric alcohol.

Because Barancyk does not disclose and/or suggest utilizing a copolymer having residues of a donor and acceptor monomers as a reactant to form the acrylic polymer that is disclosed in that patent, the Applicants submit that the nonstatutory obviousness type double patenting rejection of claims 1, 5-23, 26-31, 40, 43-52, and 55-57 is improper. Accordingly, the Applicants respectfully request that the rejection of these claims under the ground of nonstatutory obviousness type double patenting be withdrawn.

Rejection of Claims 1, 5-23, 26-31, 40, 43-52, and 55-57 under 35 USC §103(a)

The Examiner has rejected claims 1, 5-23, 26-31, 40, 43-52, and 55-57 under 35 USC §103(a) for allegedly being unpatentable over Barancyk in view of Anderson (US Pat. No. 6, 306, 965).

As stated above, Barancyk appears to disclose a curable film-forming composition that comprises: (i) a polyester polymer; (ii) an alkylolated and, optionally, etherified carbamate functional acrylic polymer; and (iii) an aminoplast crosslinking agent. See Abstract. Barancyk also appears to disclose that the polymer may be an acrylic copolymer that can be prepared by polymerizing monomers having structure III with other ethylenically unsaturated monomers. Barancyk further discloses that the monomers in structure III may be prepared by reacting a carbamate functional monomer with an aldehyde and, optionally, with an alcohol. See column 4, line 64, to column 5, line 27.

The Examiner concedes that Barancyk does not disclose a composition comprising a donor monomer selected from isobutylene, diisobutylene, dipentene, and isoprenol. See page 8 of the Office Action.

Accordingly, the Examiner relies on Anderson to disclose this feature. In general, Anderson appears to disclose a thermosetting composition that comprises: (a) a crosslinking agent having at least 2 functional groups that are reactive with carbamates; and (b) a non-gelled, carbamate functional polymer that is prepared by atom transfer radical polymerization in the presence of an initiator having at least one radically transferable group.

The Examiner contends that because both Barancyk and Anderson involve the endeavor of developing a carbamate containing coating composition, one skilled in the art

would be motivated to incorporate the isobutylene and diisobutylene that is disclosed in Anderson into Barancyk thereby rendering the claims of the present application obvious.

Even assuming that one skilled in the art would incorporate the isobutylene and diisobutylene as disclosed in Anderson into the reaction mixture used to form the acrylic copolymer disclosed in Anderson, the Applicants respectfully submit that such a mere incorporation would not yield an alternating copolymer as described in the present application. Rather, as stated in paragraph [[0052]] of the present application, isobutylene and diisobutylene would have to be present at a molar excess based on the amount of acrylic monomers in the reaction mixture in order to yield the alternating copolymer structure. However, neither Barancyk nor Anderson disclose the use of a molar excess of isobutylene or diisobutylene if those ingredients are added to the reaction mixture used to form the acrylic copolymer that is disclosed in Barancyk. Therefore, even assuming that the Examiner's contention is correct, the Applicants respectfully submit that the acrylic copolymer that would result from such an incorporation would not have the alternating structure as claimed in the present application.

Because neither Barancyk nor Anderson, alone or in combination, discloses the alternating copolymer as recited in claims 1, 23, 40, and 57, the Applicants submit that these claims, and the claims that depend directly or indirectly therefrom, are in condition for allowance.

Conclusion

In light of the foregoing arguments, it is submitted that claims 1, 5-23, 26-31, 40, 43-52, and 55-57 are in proper form for issuance of a Notice of Allowance and such action is respectfully requested at an early date.

Respectfully submitted,



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